



In the Matter of:

WILLIAM E. GRIFFIN, JR.,

ARB CASE NO. 98-066

COMPLAINANT,

ALJ CASE NO. 97-STA-25

v.

DATE: February 10, 1998

**CONSOLIDATED FREIGHTWAYS
CORPORATION OF DELAWARE
d/b/a CF MOTORFREIGHT,**

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL DECISION AND ORDER OF DISMISSAL

This case arises under the employee protection provision of the Surface Transportation Assistance Act (STAA), 49 U.S.C. §31105 (a)(1)(A) (1994), prohibiting adverse employment action against an employee for filing a complaint or commencing a proceeding relating to a violation of a commercial motor vehicle safety regulation, standard, or order. Complainant, William E. Griffin, Jr. (Griffin), alleges that Respondent, Consolidated Freightways (CF), blacklisted him with various other trucking firms in reprisal for filing STAA discrimination complaints. Following rejection of his claim by the Occupational Safety and Health Administration, U.S. Department of Labor, Griffin filed an appeal requesting a hearing before the Office of Administrative Law Judges.

The matter did not progress to the hearing stage. Instead, the Administrative Law Judge (ALJ) issued a Recommended Decision and Order (R. D. and O.) dismissing Griffin's complaint because "the Complainant has failed to respond to any of the [ALJ's] orders and has been uncooperative in other aspects of the pretrial stage. . . ." R. D. and O. at 4-5.^{1/}

^{1/} The R. D. and O. at 1-2 refers to two other ALJ proceedings involving these parties. The Board has recently decided these cases adversely to Griffin. *Griffin v. Consolidated Freightways Corp. of Delaware d/b/a CF Motorfreight*, ARB Case No. 97-148, ALJ Case Nos. 97-STA-10, 97-

(continued...)

The ALJ's findings of fact, R. D. and O. at 1-4, are supported by substantial evidence on the record as a whole and therefore are conclusive pursuant to 29 C.F.R. §1978.109(c)(3) (1997). *Castle Coal & Oil Co., Inc. v. Reich*, 55 F.3d 41, 44-46 (2nd Cir. 1995); *Griffin v. Consolidated Freightways Corp. of Delaware d/b/a CF Motorfreight*, ARB Fin. Dec. and Ord. of Dism., Feb. 3, 1998, slip op. at 2; *Beveridge v. Waste Stream Environmental, Inc.*, ARB Case No. 97-137, ALJ Case No. 97-STA-15, ARB Fin. Dec. and Ord. of Dism., Dec. 23, 1997, slip op. at 2; *Leidigh v. Freightway Corp.*, ARB Case No. 97-132, ALJ Case No. 87-STA-12, ARB Fin. Dec. and Ord., Dec. 18, 1997, slip op. at 1; *Andreae v. Dry Ice, Inc.*, ARB Case No. 97-087, ALJ Case No. 95-STA-24, ARB Fin. Dec. and Ord., July 17, 1997, slip op. at 1-2; *Shute v. Silver Eagle Co.*, ARB Case No. 97-060, ALJ Case No. 96-STA-19, ARB Fin. Dec. and Ord., June 11, 1997, slip op. at 1.

We accept the ALJ's recommendation and dismiss the complaint. 29 C.F.R. §§1978.106(a) and 18.6(d)(2)(v) (1997).^{2/} *Spady v. Roadway Express*, ARB Case No. 97-100, ALJ Case No. 96-STA-28, ARB Fin. Ord. of Dism., June 24, 1997, slip op. at 1; *Somhorst v. Silver Eagle Transport*, ARB Case No. 97-083, ALJ Case No. 97-STA-4, ARB Fin. Ord. of Dism., May 13, 1997, slip op. at 1; *Rowland v. Easy Rest Bedding, Inc.*, Case No. 93-STA-19, Sec. Fin. Dec. and Ord., Apr. 10, 1995, slip op. at 1; *White v. "Q" Trucking Co., Alliance Trucking and Employment Services of Michigan*, Case No. 93-STA-28, Sec. Fin. Dec. and Ord., Dec. 2, 1994, slip op. at 2; *Cohen v. Roberts Express*, Case No. 91-STA-29, Sec. Fin. Dec. and Ord., Feb. 11, 1992, slip op. at 2-3.

SO ORDERED.

DAVID A. O'BRIEN
Chair

KARL J. SANDSTROM
Member

^{1/}(...continued)

STA-19, ARB Fin. Dec. and Ord., Jan. 20, 1998; *Griffin v. Consolidated Freightways Corp. of Delaware d/b/a CF Motorfreight*, ARB Case No. 98-065, ALJ Case No. 96-STA-8, ARB Fin. Dec. and Ord. of Dism., Feb. 3, 1998.

^{2/} Line 5 of the ALJ's indented quotation from 29 C.F.R. §18.6(d)(2), R. D. and O. at 4, should read "may take such action" instead of "may take action."